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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,855	08/03/2001	Oliver O. Stanchfield	TPP 31390	6671
7590 Stevens, Davis, Miller & Mosher, L.L.P. Suite 850 1615 L Street, N.W. Washington, DC 20036			EXAMINER A, PHI DIEU TRAN	
		ART UNIT 3637		PAPER NUMBER
		MAIL DATE 09/10/2007	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/920,855	STANCHFIELD, OLIVER O.	
	Examiner	Art Unit	
	Phi D. A	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 June 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5-15,27,28,36,37,40-42,44,45,48,49 and 51-53 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 48 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5-15,27,28,36,37,40-42,44,45,48,49 and 51-53 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

Claim 8 is withdrawn from consideration. Applicant needs to label the claim as withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 7, 9-14, 27-28, 36-37, 40-45, 49, 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margarit (5979132) in view of Johnson (3200547) and Hickler (2456006) and Brown et al (3321878).

Margarita shows a molding having a longitudinal axis, the molding comprising a core formed from compressed wood particles, the molding having a generally planar floor engaging surface (the surface engaging the floor 3), a wall engaging surface (the surface engaging the wall (2), the surfaces positioned substantially perpendicular to each other, a surface formed of a décor sheet (col 2 line 5), the wall engaging surface defines apertures (for passing of fasteners 8) therethrough to allow a connector (fastener) to pass through the wall engaging surface therethrough, the connector fastening the molding to the corner when the molding is in the installed position, an intermediate surface (the curving surface at the bottom of the molding) connecting the wall surface and the floor engaging surface, a face on the molding and positioned to face outwardly from the corner, the face comprising at least one curved section (the surface at the top of figure 2), the molding having a generally uniform cross section at planes transverse to

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the longitudinal axis, the core being of high density fiberboard , the face comprising at least one flat section, the face comprising at least one planar section.

Margarita does not show a surface formed of a thermosetting resin sheet, a preformed resilient pad coupled to the floor engaging surface, the pad being hollow core polymeric material, the pad resiliently creates a substantially moisture tight seal when installed.

Johnson (figure 3) shows preformed resilient, conformable foamed pads (16, 17) for mounting and sealing the joint between the floor and the wall, the pad being resilient and formed of a elastomer polymer material, the pad being distal the front edge (14) of the floor engaging surface, the front edge being distal the corner.

Hickler shows a structure laminated on an outer surface with a thermosetting resin and décor sheet (col 2 lines 21-24, lines 38-43), the décor sheet being paper.

Brown et al discloses the use of a molding (158, figure 6) having a hollow core to enable the molding to easily resiliently compress.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarita's structure to show a resilient preformed pad coupled to the floating floor engaging surface, the pad formed of a material selected from the group consisting of a natural or synthetic rubber, compressed open cell foamed plastics, closed cell foamed plastics, elastomer polymer materials and hollow core polymeric material, the pad resiliently creates a substantially moisture tight seal when installed as taught by Johnson, a surface formed of a thermosetting resin sheet because having a thermosetting resin sheet with the paper would enable the fast curing and bonding of the paper to the underlying structure as taught by Hickler, and having a preformed pad formed of elastic polymer material would enable the proper sealing

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of the floor engaging surface to the floor as taught by Johnson, and having the pad being hollow, allows the pad to easily resiliently compress as taught by Brown et al.

Per claim 2, Margarit as modified shows all the claimed limitations except for an adhesive positioned on the pad and configured to engage the floor when the molding is in the installed position.

Johnson further shows adhesive (19) on the pad (16, 17) to enable the bonding of the pad to the floor and the wall in the installed position.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarit's modified structure to show an adhesive positioned on the pad and configured to engage the floor when the molding is in the installed position because it would allow for the easy bonding/attachment of the pad to the floor/wall as taught by Johnson.

Per claims 9, 11, 45, 47, 49-50, Margarit as modified shows the pad being positioned distal a front edge of the floating floor engaging surface, the front edge of the floating floor engaging surface is distal the corner, the molding having a **generally** uniform cross section at planes transverse to the longitudinal axis, the pad being formed of foamed plastic, the décor sheet comprising at least one of a color and a pattern complementary to an upper surface of the floating floor (inherently so), the décor sheet of the molding is complementary to the decorative surface of the surface element, the pad being closed cell or open cell foamed plastic.

Per claim 12, Margarit as modified further shows the pad being of elastomer polymer materials.

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Per claim 13, Margarit as modified shows all the claimed limitations. The claimed method steps of installing the molding would have been the obvious method steps of installing Margarit's modified structure.

Per claim 14, Margarit as modified shows all the claimed limitations except for the pad including a removable film covers the adhesive.

Johnson further shows the pad (16, 17) including a removable film (20) covering the adhesive (19).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarit's modified structure to show the pad including a removable film covers the adhesive as taught by Johnson because it would protect the adhesive surface before use, and is well known in the art.

Per claims 27-28, 41-42, Margarit as modified shows all the claimed limitations. The claimed method steps would have been the obvious method steps of installing Margarit's modified structure.

Per claim 44, Margarit as modified shows all the claimed limitations except for the décor sheet comprising at least one of color and a pattern identical to an upper surface of an adjacent floating floor.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarit's modified to show the décor sheet comprising at least one of color and a pattern identical to an upper surface of an adjacent floating floor because having the floating floor having the same décor as the décor of the décor sheet of the molding would have

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been obvious to one having ordinary skill in the art as the matching color surfaces would provide for a harmonious and aesthetic appearance for the combined assembly.

Per claim 51, Margarit as modified further shows the pad being formed from elastomer polymer materials.

Per claim 52, Margarit as modified further shows the molding comprises a wall base.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Margarit (5979132) in view of Johnson (3200547), Brown et al and Hickler (2456006) as applied to claim 5 above and further in view of Stillman (3216164).

Margarit as modified shows all the claimed limitations except for the intermediate surface being substantially planar and angled so that the wall, floor and intermediate wall forming a generally triangular shape in a plane transverse to the longitudinal axis.

Stillman shows the intermediate surface (surface between rib 18 and surface 24) being substantially planar and angled so that the wall (24), floor (19, figure 2) and intermediate wall surface forming a generally triangular shape in a plane transverse to the longitudinal axis.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarit's modified structure to show the intermediate surface being substantially planar and angled so that the wall, floor and intermediate wall forming a generally triangular shape in a plane transverse to the longitudinal axis because the angle allows for the proper sealing of the molding to the floor and wall as taught by Stillman.

4. Claims 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Margarit (5979132) in view of Johnson (3200547) and Hickler (2456006).

Margarita shows a floating floor, a molding for positioning along a corner formed by an intersection of a wall and the floating floor, the molding having a longitudinal axis, the molding comprising a core formed from fiberboard, the molding having a generally planar floor engaging surface (the surface engaging the floor 3), a wall engaging surface (the surface engaging the wall (2), the surfaces positioned substantially perpendicular to each other, a surface formed of a décor sheet (col 2 line 5), the molding having a **generally** uniform cross section at planes transverse to the longitudinal axis, the core being of high density fiberboard , the face comprising at least one flat section, the face comprising at least one planar section.

Margarita does not show a surface formed of a thermosetting resin sheet, a resilient pad coupled to the floor engaging surface, the pad formed of a material selected from the group consisting of a natural or synthetic rubber, compressed open cell foamed plastics, closed cell foamed plastics, elastomer polymer materials and hollow core polymeric material, the pad resiliently creates a substantially moisture tight seal when installed, the floating floor having a décor which is identical to the décor of the décor sheet of the molding.

Johnson (figure 3) shows preformed resilient, conformable foamed pads (16, 17) for mounting and sealing the joint between the floor and the wall, the pad being resilient and formed of a elastomer polymer material, the pad being distal the front edge (14) of the floor engaging surface, the front edge being distal the corner.

Hickler shows a structure laminated on an outer surface with a thermosetting resin and décor sheet (col 2 lines 21-24, lines 38-43), the décor sheet being paper.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarita's structure to show a resilient preformed pad coupled to the

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floating floor engaging surface, the pad formed of a material selected from the group consisting of a natural or synthetic rubber, compressed open cell foamed plastics, closed cell foamed plastics, elastomer polymer materials and hollow core polymeric material, the pad resiliently creates a substantially moisture tight seal when installed as taught by Johnson, a surface formed of a thermosetting resin sheet because having a thermosetting resin sheet with the paper would enable the fast curing and bonding of the paper to the underlying structure as taught by Hickler, and having a preformed pad formed of elastic polymer material would enable the proper sealing of the floor engaging surface to the floor as taught by Johnson, and having the floating floor having the same décor as the décor of the décor sheet of the molding would have been obvious to one having ordinary skill in the art as the matching color surfaces would provide for a harmonious and aesthetic appearance for the combined assembly.

Response to Arguments

Applicant's arguments filed 6/20/07 have been fully considered but they are not persuasive.

Applicant states that one of ordinary skill in the art to would not provide the pad with a hollow core as allegedly disclosed by Brown et al, examiner respectfully disagrees. As set forth above, Brown et al discloses the use of a resilient member (158), which has a hollow core to enhance the compressibility of the core. Modifying Margarit's modified structure with Brown et al's teaching of hollow core thus would allow the pad to more easily compressed. As the pad compresses, it forms a tight sealing surface its attaching surface per the constant pressing of the elastic material. The combination is thus encouraged.

With respect applicant's statement that Brown et al does not provide for a pad that has hollow core, examiner respectfully disagrees. Brown et al's invention involves a door (160), which swings open and close with respect to the framing structure (150). The resilient pad (158) functions as a door stop and seal for the door when closed. The pad in figure 8 shows an opening in the middle of the pad. Figure 6 shows a top view of the pad (158) with an opening in the middle. The opening is a through hole. If the opening is not a through hole as suggested by applicant, drawing would show the opening having cross hatching consistent with other parts of the pad. The opening, however, is shown as an empty circle, which is consistent with conventional drawing technique for demonstrating an opening. The pad thus has a hollow core as claimed. Modifying Margarit's teaching with Brown et al's hollow core, results in Maragrit having a hollow pad as claimed. The argument is thus moot.

With respect to applicant's statement to claims 27-28, examiner respectfully points out that Margarit as modified shows a core member having a resilient pad with a hollow core attached to the bottom thereto. Margaria as modified, does not show an adhesive layer at the bottom of the hollow core as claimed. As Margarit's modified structure shows all the claimed structures without the adhesive at the bottom of the hollow pad, the claimed method steps would have been the obvious method steps of installing Margarit's modified structures. The argument is thus moot.

With respect to claim 44, applicant states that since none of the cited references discloses a molding having a décor identical to the décor of the floating floor and that such a feature would provide for a harmonious and aesthetic appearance for the combined assembly, the rejection is improper and hindsight, examiner respectfully disagrees. Per KSR v. Teleflex, examiner may

rely on common sense and ordinary ingenuity. Examiner has provided an explanation as to why the differences between the prior art references and the claimed invention would have been obvious to one skilled in the art (would provide for a harmonious and aesthetic appearance for the combined assembly). The combination is not hindsight as set forth by applicant. Furthermore, having the décor sheet comprising at least one of a color and a pattern identical to an upper surface, also appears to be printed matter. In Lowry, in re Ngai, it has been held that superficial or aesthetic variations cannot distinguish over otherwise apt prior art. There must be a functional connection between the printed matter and the substrate. The color and pattern as claimed does not present a functional connection between the printed matter and the substrate. The argument is thus moot.

Applicant's arguments to claims 6, 15 are also moot in view of the statements above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A *PA*

9/2/07

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